

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL
ILLINOIS
COMMERCE COMMISSION
Jul 25 12 52 PM '01
CHIEF CLERK'S OFFICE

Illinois Bell Telephone Company)	
)	
Application for Review of Alternative)	Docket No. 98-0252
Regulation Plan)	
)	
Petition to Rebalance Illinois Bell)	
Telephone Company's Carrier Access and)	Docket No. 98-0335
Network Access Line Rates)	
)	
Citizens Utility Board and People of the)	
State of Illinois, ex rel. James E. Ryan,)	
Attorney General of the State of Illinois,)	
Complainants)	
)	
vs.)	Docket No. 00-0764(consol.)
)	
Illinois Bell Telephone Company d/b/a)	
Ameritech Illinois,)	
Respondent)	

**CITY OF CHICAGO'S BRIEF ON EFFECT OF
PUBLIC ACT 92-0022 ON THIS DOCKET**

On May 22, 2001, the Hearing Examiner's Proposed Order (HEPO) was filed in this matter. At the time the HEPO was filed, the Illinois legislature was in the process of rewriting the Telecommunication article of the Public Utilities Act. 220 ILCS 5/13-101 *et seq.* The legislation (HB 2900) was signed into law by the Governor as Public Act 92-0022 and was effective on June 30, 2001. The Commission has asked parties in this matter to submit supplemental briefs addressing how the legislation affects this docket. In the City's view, the newly enacted Article does not require that the Commission take any extraordinary measures as a precondition to proper resolution of this matter.

Public Act 92-0022 (PA 92-0022) does not negate or modify the need for or the purpose of this alternative regulation review proceeding. The Commission must assess how Ameritech has functioned under the alternative regulation plan approved by the Commission in 1994. And, the Commission must determine whether the consumer and regulatory benefits of the alternative regulation plan satisfy the Act's requirements for renewal. PA 92-0022 does not resolve these issues; it does not address whether rate of return or alternative regulation should be used to govern Ameritech's activities.

The Commission's plan review proceeding has been expanded (through consolidation with related cases) and now encompasses the following issues: (A) whether the plan meets the established statutory goals; (B) whether Ameritech is entitled to a rate hike; (C) whether rates should be reset to reflect a just and reasonable earnings level; (D) whether the price cap formula should be adjusted; and (E) whether the plan's existing penalties are sufficient to deal with service quality issues. The parties have presented, in the record of this case, a detailed examination of these and other relevant issues. There is no need to reopen the record or otherwise to delay the Commission's resolution of the issues presented in this case.

First, any issues presented by the new statutory provisions are susceptible to determination as a matter of law. Second, the testimony of record is complete with respect to the issues actually presented in this case: whether the alternative regulation plan should be continued and whether the plan should be modified. The new statutory provisions address a myriad of issues reflecting the reliability, customer service and competition focal points of the legislative process. However, PA 92-0022 does not change the purpose or focus of the alternative regulation docket, and it does not require further testimony or the examination of additional

issues.

Certainly there are instances where PA 92-0022 and the HEPO address the same or related issues. However, any tensions between the two are matters of law whose resolution does not require new factual predicates to resolve. The HEPO is not a final order. The Commission has a duty to review -- and routinely does review -- the HEPO to assure that it is consistent with the Commission's enabling statute, the PUA. The Commission has the power to conform any proposed order to governing law by amending or rejecting the HEPO. By exercising this routinely exercised statutory authority, the Commission can reconcile those few variances the City has identified without expanding the record.

The legislation addresses customer service issues with some particularity, by including provisions for specific penalties and customer credits. These provisions are binding on all telecommunication providers. As might be expected, there are some differences between the requirements that the earlier HEPO imposed on Ameritech and those later defined by the legislative process. It is clear that the Commission cannot adopt measures that would contravene the new statutory provisions. Any order issued by the Commission in this matter, as a matter of law, must be consistent with PA 92-0022. Additionally, the Commission should also insure that its actions do not conflict with its recently enacted Part 732 rules, which implement the customer credit provisions of PA 92-0022.

The task of reconciling the pertinent recommendations of the HEPO with applicable law is neither uncommon nor particularly difficult. It can and should be accomplished promptly, as part of the Commission's regular process for considering, modifying and adopting proposed orders.

The City also notes that PA 92-0022 requires that Ameritech establish flat rate local service plans. These novel local exchange services have not yet been designed, defined, or presented to the Commission. Delaying resolution of this case for what is likely to be a lengthy process -- designing, reviewing, and gaining approval new services -- is not warranted, and would contravene the Commission's efficiency goal. *See* 83 Ill. Adm. Code 200.25.

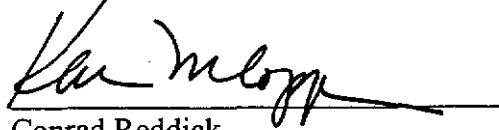
The mandated new flat rate services do not clearly fit into any of the service baskets established by the alternative regulation plan being reviewed. Should the Commission decide (contrary to the City's recommendation) that it is necessary or appropriate to address still undefined services in this docket, no additional proceedings are needed. If the Commission orders traditional regulation, the flat rate services could be handled in due course as part of the Commission's regular new service approval process. If alternative regulation is ordered, the flat rate packages should be placed in a separate basket under any renewed or modified alternative regulation plan.

The new flat rate packages (as defined by PA 92-0022) contain services which have traditionally been in the residential basket, services that have been in the "other" basket, and competitive services which have not been in any basket. Placing the flat rate package in an existing basket would be akin to trying to force a square pin into a round hole and could result in price changes that are (contrary to the statutory mandate) unfavorable to consumers.

Dated: July 23, 2001

Respectfully submitted,

THE CITY OF CHICAGO
Mara S. Georges, Corporation Counsel

A handwritten signature in black ink, appearing to read "Conrad Reddick", is written over a horizontal line.

Conrad Reddick
Special Deputy Corporation Counsel
Jack A. Pace
Karen M. Coppa
Assistant Corporation Counsels
Suite 900
30 North LaSalle
Chicago, Il 60602
(312) 744-4779

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Bell Telephone Company)	
)	
Application for Review of Alternative)	
Regulation Plan)	Docket No. 98-0252
)	
Illinois Bell Telephone Company)	
)	
Petition to Rebalance Illinois Bell Telephone)	
Company's Carrier Access and Network)	Docket No. 98-0335
Access Line Rates)	
)	
Citizens Utility Board and People)	
of the State of Illinois, ex rel.)	
James E. Ryan, Attorney General)	
of the State of Illinois,)	
)	
Complainants)	Docket No. 00-0764 (consol.)
)	
v.)	
)	
Illinois Bell Telephone Company, d/b/a)	
Ameritech Illinois,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on July 23, 2001, I caused to be mailed to Donna M. Caton, Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, P.O. Box 19280, Springfield, Illinois 62794-9280, by Federal Express, postage prepaid, the original and three(3) copies of the Initial Brief of the City of Chicago in the above-captioned docket.


Dated: July 23, 2001



KAREN M. COPPA
Assistant Corporation Counsel
30 North LaSalle Street, Suite 900
Chicago, Illinois 60602

CERTIFICATE OF SERVICE

I, Karen M. Coppa, an attorney, hereby certifies that a copy of the foregoing Initial Brief of the City of Chicago was served upon the party or parties listed on the attached service list, by first class mail, postage prepaid, from Suite 900, 30 North LaSalle Street, Chicago, Illinois 60602, on July 23, 2001, in accordance with the Rules of Practice of the Illinois Commerce Commission.


KAREN M. COPPA

Service List 98-0252

Susan L. Satter
Assistant Attorney General
Public Utilities Bureau
100 West Randolph, 12th Floor
Chicago, Illinois 60601

Karen Lusson
Citizens Utility Board
349 South Kensington Avenue
LaGrange, Illinois 60525

Louise A. Sunderland
Counsel
Ameritech
225 West Randolph Street - 25D
Chicago, Illinois 60606

Darrell S. Townsley
MCI Telecommunications Corp.
205 North Michigan Avenue
Suite 3700
Chicago, Illinois 60601

Phillip Casey
Hearing Examiner
Illinois Commerce Commission
160 North LaSalle, C-800
Chicago, Illinois 60601

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Carrie Hightman
Schiff Hardin & Waite
7300 Sears Tower
Chicago, Illinois 60606

Maric Spicuzza
David L. Heaton
Allan Goldenberg
Cook County State's Attorney's Office
69 West Washington, Suite 700
Chicago, Illinois 60602

David J. Chorzempa
William A. Davis, II,
Cheryl L. Hamill, and John Dunn
AT& T Communications
227 West Monroe Street, Suite 1300
Chicago, Illinois 60606

Matthew L. Harvey
Thomas R. Stanton
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601-3104

Calvin Manshio
Manshio & Wallace
4753 North Broadway Avenue
Suite 732
Chicago, Illinois 60640

Eve Moran
Hearing Examiner
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601

Michael Ward
Michael Ward, P.C.
1608 Barkley Blvd
Buffalo Grove, Illinois 60089

John E. Rooney
Hopkins & Sutter
3 First National Plaza
Suite 4100
Chicago, Illinois 60602-4205

Henry T. Kelly
John F. Ward, Jr.
Joseph E. Donovan
O'Keefe Ashenden Lyons & Ward
30 North LaSalle Street, Suite 4100
Chicago, Illinois 60602

Patrick Giordano
Giordano & Associates
55 East Monroe Street
Suite 3040
Chicago, Illinois 60603

Carol P. Pomponio
XO Illinois, Inc
303 East Wacker
Concourse Level
Chicago, Illinois 60601

Kemal M. Hawa
Richard M. Rindler
Kathleen Greenan
Swidler, Berlin, Shereff & Friedman
3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

Daniel Meldazis
Focal Communications Corporation
200 North LaSalle Street
Chicago, Illinois 60601

Kenneth A. Schiffman
Sprint Communications
8140 Ward Parkway, 5E
Kansas City, MO 64114

Mr. Peter Q. Nyce, Jr.
General Attorney
General Attorney
Dept. of the Army
Office of the Judge Advocate General
901 North Stuart Street
Arlington, VA 22203-1837

Dennis K. Muncy
Joseph D. Murphy
Matt C. Deering
Meyer, Capel, Hirschfeld, Muncy, Jahn &
Aldeen, P.C.
P.O. Box 6750
Champaign, Illinois 61826-6750

Kent Heyman
Richard E. Heatter
MGC Communications, Inc.
3301 N. Buffalo Drive
LaVegas, NV 89129